

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,)
4)
5 Plaintiff,)
6 vs.)
7 JOSE ALONSO-CASTRO,)
8 Defendant.)

Case 2:11-cr-00097-GMN-CWH-2

**ORDER DENYING
Defendant's Motion for Certificate of
Appealability (ECF No. 49)**

9 Before the Court is Defendant's Motion for Certificate of Appealability (ECF No. 49).
10 Rule 22 of the Federal Rules of Appellate Procedure addresses the requirement for a certificate of
11 appealability to be issued. Rule 22 states in relevant part, as follows,

12 (b) Certificate of Appealability.

13 (1) In a habeas corpus proceeding in which the detention complained
14 of arises from process issued by a state court, or in a 28 U.S.C. § 2255
15 proceeding, the applicant cannot take an appeal unless a circuit justice
16 or a circuit or district judge issues a certificate of appealability under
17 28 U.S.C. § 2253(c). If an applicant files a notice of appeal, the district
18 clerk must send to the court of appeals the certificate (if any) and the
19 statement described in Rule 11(a) of the Rules Governing Proceedings
Under 28 U.S.C. § 2254 or § 2255 (if any), along with the notice of
appeal and the file of the district court proceedings. If the district judge
has denied the certificate, the applicant may request a circuit judge to
issue it.

20 The legal standard used to determine if a certificate of appealability should issue is addressed in
21 Section (c)(2) and (3) of 28 U.S.C. § 2253 which states as follows,


22 (2) A certificate of appealability may issue under paragraph (1) only if
23 the applicant has made a substantial showing of the denial of a
constitutional right.

24 (3) The certificate of appealability under paragraph (1) shall indicate
25 which specific issue or issues satisfy the showing required by
paragraph (2).

1 This Court has considered the issues raised in Defendant's Motion Under 28 U.S.C. § 2255
2 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (ECF No. 47), and
3 Defendant's Motion for Certificate of Appealability (ECF No. 49) with respect to whether they
4 satisfy the standard for issuance of a certificate of appealability. The Court determines that none
5 of the issues raised meet that standard. Accordingly, the Court will deny Defendant a Certificate
6 of Appealability.

7 **IT IS THEREFORE ORDERED** that Defendant's Motion for Certificate of
8 Appealability (ECF No. 49) is **DENIED**.

9 **DATED** this 11th day of June, 2014.

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13 Gloria M. Navarro, Chief Judge
14 United States District Court
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